

Part 7

Applicability to Political Subdivisions, the Judiciary, and the Legislature

63G-2-701 Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.

- (1) As used in this section:
 - (a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.
 - (b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.
 - (c) "Requester" means the same as that term is defined in Section 63G-2-400.5.
- (2)
 - (a) Each political subdivision may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.
 - (b) The ordinance or policy shall comply with the criteria set forth in this section.
 - (c) If any political subdivision does not adopt and maintain an ordinance or policy, then that political subdivision is subject to this chapter.
 - (d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.
 - (e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with the state archives no later than 30 days after its effective date.
 - (f) The political subdivision shall also report to the state archives all retention schedules, and all designations and classifications applied to record series maintained by the political subdivision.
 - (g) The report required by Subsection (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report is not subject to approval by state archives. If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).
- (3) Each ordinance or policy relating to information practices shall:
 - (a) provide standards for the classification and designation of the records of the political subdivision as public, private, controlled, or protected in accordance with Part 3, Classification;
 - (b) require the classification of the records of the political subdivision in accordance with those standards;
 - (c) provide guidelines for establishment of fees in accordance with Section 63G-2-203; and
 - (d) provide standards for the management and retention of the records of the political subdivision comparable to Section 63A-12-103.
- (4)
 - (a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.
 - (b) In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the political subdivision are insufficient to meet the requirements of those sections.

- (5)
 - (a) A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.
 - (b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.
 - (c)
 - (i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.
 - (ii) An appeals board established by a political subdivision shall be composed of three members:
 - (A) one of whom shall be an employee of the political subdivision; and
 - (B) two of whom shall be members of the public, at least one of whom shall have professional experience with requesting or managing records.
 - (iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.
 - (iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the records committee, as provided in Section 63G-2-403.
- (6)
 - (a) A political subdivision or requester may appeal an appeals board decision:
 - (i) to the records committee, as provided in Section 63G-2-403; or
 - (ii) by filing a petition for judicial review with the district court.
 - (b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.
 - (c) A person who appeals an appeals board decision to the records committee does not lose or waive the right to seek judicial review of the decision of the records committee.
- (7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall forward to state archives a copy and summary description of the ordinance or policy.

Amended by Chapter 335, 2015 General Session

63G-2-702 Applicability to the judiciary.

- (1) The judiciary is subject to the provisions of this chapter except as provided in this section.
- (2)
 - (a) The judiciary is not subject to Part 4, Appeals, except as provided in Subsection (5).
 - (b) The judiciary is not subject to Part 5, State Records Committee, and Part 6, Collection of Information and Accuracy of Records.
 - (c) The judiciary is subject to only the following sections in Part 9, Public Associations: Sections 63A-12-105 and 63A-12-106.
- (3) The Judicial Council, the Administrative Office of the Courts, the courts, and other administrative units in the judicial branch shall designate and classify their records in accordance with Sections 63G-2-301 through 63G-2-305.
- (4) Substantially consistent with the provisions of this chapter, the Judicial Council shall:
 - (a) make rules governing requests for access, fees, classification, designation, segregation, management, retention, denials and appeals of requests for access and retention, and amendment of judicial records;

- (b) establish an appellate board to handle appeals from denials of requests for access and provide that a requester who is denied access by the appellate board may file a lawsuit in district court; and
 - (c) provide standards for the management and retention of judicial records substantially consistent with Section 63A-12-103.
- (5) Rules governing appeals from denials of requests for access shall substantially comply with the time limits provided in Section 63G-2-204 and Part 4, Appeals.
- (6) Upon request, the state archivist shall:
- (a) assist with and advise concerning the establishment of a records management program in the judicial branch; and
 - (b) as required by the judiciary, provide program services similar to those available to the executive and legislative branches of government as provided in this chapter and Title 63A, Chapter 12, Public Records Management Act.

Amended by Chapter 369, 2012 General Session

63G-2-703 Applicability to the Legislature.

- (1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.
- (2)
- (a) The Legislature and its staff offices are not subject to Section 63G-2-203 or to Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.
 - (b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Public Records Management Act: Sections 63A-12-102 and 63A-12-106.
- (3) The Legislature, through the Legislative Management Committee:
- (a) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and
 - (b) may establish an appellate board to hear appeals from denials of access.
- (4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.
- (5) Upon request, the state archivist shall:
- (a) assist with and advise concerning the establishment of a records management program in the Legislature; and
 - (b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Public Records Management Act.

Amended by Chapter 258, 2015 General Session